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FISCAL IMPACT STATEMENT

LS 7059

BILL NUMBER: HB 1266

NOTE PREPARED: Feb 12, 2009

BILL AMENDED: Feb 12, 2009

SUBJECT: Notice to Voters Regarding Provisional Ballots.

FIRST AUTHOR: Rep. Avery

BILL STATUS: CR Adopted - 1st House

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Explanation of Provisional Ballot-* The bill requires a precinct election officer, in the case of a voter who casts a provisional ballot, or an absentee voter board, in the case of a voter who casts an absentee ballot that is treated as a provisional ballot, to provide both orally and in writing an explanation of the steps the voter must take in order to have the voter's ballot counted. The bill requires the Election Commission (EC) to prescribe the form of the explanation.

Circuit Court Clerk Notification- The bill requires the circuit court clerk of a county that conducts an election in which a voter casts a provisional ballot or an absentee ballot that is treated as a provisional ballot to notify the voter not later than three days after election day concerning: (1) the reasons that the voter's ballot is being treated as a provisional ballot; (2) what actions, if any, that the voter must take in order to have the voter's ballot counted; (3) the deadline by which the voter must act to have the voter's ballot counted; and (4) the name, job title, address, and telephone number of an individual whom the voter may contact for additional information.

Mailing of Notices- The bill requires that the notice be sent by first class United States mail or given by another method that the circuit court clerk determines will provide actual notice to the voter. The bill requires the notice to be in a form prescribed by the EC. The bill provides that a circuit court clerk who knowingly omits to provide a provisional voter with the required notice commits a Class D felony.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Explanation of Provisional Ballot-* The EC would be able to prescribe an explanation form within the course of a regular business meeting. If completely accessible electronically

the Election Division (ED) would have minimal, if any, expenditures from printing the explanation form.

(Revised) *Mailing of Notice*- The EC could prescribe the mailer form at the same time as the explanation form above. A circuit court clerk that knowingly did not mail the proper notice would commit a Class D felony.

Penalty Provision: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) *Mailing of Notice- Penalty Provision*: If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Explanation of Provisional Ballot*- This provision should minimally impact precinct or absentee voter board expenditures.

(Revised) *Mailing of Notice*- Clerks could choose to mail notices to persons casting a provisional ballot. If notices were mailed at the standard first class postage rate, the cost could range from \$0.27 (postcard) to \$0.42 (letter) per notice depending on the size of the form. During the 2006 general election, 3,873 provisional ballots were cast in Indiana. Of the number cast, 2,701 or 69.7% were counted. 2008 election results for provisional ballots are not currently available.

Penalty Provision: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: (Revised) *Mailing of Notice- Penalty Provision*: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Election Commission; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies, precincts, absentee voter boards.

Information Sources: Secretary of State: <http://www.in.gov/sos/elections/elections/index.html>.

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